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ABSTRACT

Prepared by the District of Columbia Street Law Project for its ninth annual city-wide mock trial competition, this instructional handout provides the material for a civil trial over housing discrimination. The plaintiffs are an unmarried couple with a disabled child whose application to live at Waterfront Gardens, a property owned by Potomac Properties, has been denied because their individual salaries are below $350 a week. Because Potomac Properties has a policy of evaluating the salaries of unmarried couples separately and of married couples jointly, Banks and Smallwood claim discrimination and are suing. Potomac Properties claims that the rejection was made on the basis of income requirements and bad character references. The handout clarifies the laws and explains the legal precedents. As evidence, the handout provides an advertisement for Waterfront Gardens; the defendants' applications; and witness statements from Banks, Smallwood, a law student who posed as an applicant at Waterfront Gardens, the resident manager, the president of Potomac Properties, and a landlord who had given Banks a bad referral. Through participation in mock trials and analysis of the activity, students gain an insider's perspective on courtroom procedure and a basic understanding of the legal mechanism through which society resolves its disputes. Mock trials develop critical analysis, questioning and listening skills, and skills in preparing and organizing materials. (JD)

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Statement of Facts for 1980 City-Wide Mock Trial Competitions

1980 Street Law
Mock Trial
Competition

Materials

ED 378 117

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Superior Court of the
District of Columbia

CIVIL DIVISION

Albert Banks and Virginia Smallwood, for herself and on behalf of her minor son, Dwayne Jones, v. Plaintiffs	)	No. MT-80
Potomac Properties, Inc., Thomas R. Baldwin, and Victoria Reese, Defendants	)	

STATEMENT OF FACTS**

This case arises from a suit brought by Albert Banks and Virginia Smallwood, on her own behalf and on behalf of her minor son, Dwayne Jones, against Potomac Properties, Inc., and the President of Potomac Properties, Thomas R. Baldwin, and Victoria Reese, an employee of the company.

Albert Banks and Virginia Smallwood, not married, wish to live together with Ms. Smallwood's 13 year old foster son at the Waterfront Gardens Apartments, 425 N Street, S. W. Ms. Smallwood's son, Dwayne, is physically handicapped and is confined to a wheelchair.

Waterfront Gardens is owned by Potomac Properties, Inc. Thomas Baldwin is the President of Potomac Properties. Victoria Reese is the resident manager of Waterfront Gardens.

Potomac Properties has an unwritten policy requiring unrelated persons who wish to share an apartment to make separate applications. Each application is reviewed as if the individual alone would have full responsibility for the apartment. Each individual applicant must earn enough money in one week to pay a full month's rent (e.g., if the rent is $350.00 per month, each applicant must have a gross weekly salary of at least $350.00). In addition, each applicant must have good credit and personal references.

** These facts are agreed to by both parties.

On the other hand, co-tenants related by blood, marriage or other legal bond may submit only one joint application (e.g., a married couple would submit a single application). Related persons together need only earn a combined gross amount of money in one week equal to the full month's rent.

The applications of Albert Banks and Virginia Smallwood to live at Waterfront Gardens are rejected.

The D.C. Human Rights Act states:

> D.C. Code §6-2231 (paraphrased): "It shall be an unlawful discriminatory practice to refuse to rent or sell property, or to require different terms for such rental or sale, wholly or partially for a discriminatory reason based on the race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, physical handicap, matriculation, political affiliation, source of income, or place of residence or business of any individual."***

In this suit, Mr. Banks and Ms. Smallwood allege that the policies of Potomac Properties and the practices of its employees have discriminated against them on the basis of marital status, family responsibilities, physical handicap.

In response, the defense states that the decision to reject the applications was made on the basis of their failure to meet Potomac Properties' income requirements, and bad character references, neither of which is an illegal category of discrimination. Even if unlawful discrimination did take place, the defense argues that the actions of Potomac Properties in this case were a "business necessity" which the D.C. Human Rights Act allows as follows:

> D.C. Code §6-2203 (paraphrased): "A discriminatory act is not unlawful if it can be justified as a business necessity. An act is a business necessity if the business could not survive without the act."

***Please see Appendix A for definitions.

If the court finds that the defendants have violated the Human Rights Act with regard to Albert Banks and Virginia Smallwood, the plaintiffs will ask the court:

(1) to order Potomac Properties to cease the practices of requiring unrelated individuals to apply separately and to meet income guidelines that are different from those set for married couples;

(2) to order Potomac Properties to accept all three plaintiffs as tenants;

(3) to order a hearing to determine the amount of money damages that Potomac Properties should have to pay as a result of its discrimination;

(4) to order Potomac Properties to pay all court costs and attorneys fees.

WITNESS STATEMENTS:

Albert Banks
Virginia Smallwood
Terry Hobson
Victoria Reese
Thomas Baldwin
Bobby Taylor

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Witness for the Plaintiff

ALBERT BANKS

My name is Albert Banks. I am 29 years old. Right now, I'm living with Virginia Smallwood at her sister's house, 1779 Jackson Street, N. E. I'm a writer. I write short stories which I sell to magazines. I'm working on a novel. I earn about $8,000. per year; it's not regular, but it's enough to live on.

I met Ginny Smallwood when I came to D.C. in March, 1979. I lived in Baltimore before. I was staying with some friends, and got to know Ginny through them. Ginny lived with her sister and Dwayne, Ginny's foster son. Dwayne was born with a spinal defect, but somehow, as an infant, he was labeled as retarded, and placed at Forest Haven. Ginny, a physical therapist, found him there in 1977, and managed to get him placed in her care. Dwayne gets around in a wheelchair.

Ginny and I hit it off pretty quickly, and soon we agreed to find our own place to live, with Dwayne, of course. In September, 1979, we began to look for a place. My income is pretty small, but with Ginny's income combined with mine we figured we could afford a $350.00 a month apartment. We needed two bedrooms, and preferably, something on a first floor, for Dwayne.

On September 21, I saw an ad in the Star that seemed to offer an ideal situation: two bedrooms, convenient to transportation, Southwest area; utilities included in the $350.00 per month rent. We thought we could swing it. I called to make an appointment. I talked to a Mrs. Reese, who identified herself as the resident manager. She said several apartments were available.

On Sunday, September 23, Ginny, Dwayne and I went to see the place, Waterfront Gardens, at 425 N Street, S. W. We were pleased to see that a Metro station was being built just a block away. The apartment complex was fairly new and well-kept. The apartments were garden-style, two-or-three floor brick buildings, arranged in clusters.

Once inside the rental office, things began to get strange. I greeted Mrs. Reese, who was sitting at her desk, and introduced myself, Ginny, and Dwayne. She didn't say anything. I told her that we had an appointment, at which point she said, "There must be some mistake." Ginny was reading Mrs. Reese's appointment calendar upside down, and she pointed out that BANKS was written beside 2:00 p.m. for Sunday, September 23. Mrs. Reese said that was none of her business. She kept staring at Dwayne.

Then, Mrs. Reese turned to me and said, "O.K., Mr. Banks, why don't you just fill out this application for you and your wife," and she gave me the form. I explained that Ginny was not my wife. I asked if we might see the available apartments before making the application.

Well, with that Mrs. Reese just got very cold and business-like and pulled out two applications, telling us that company policy required unrelated persons who planned to share an apartment to complete separate applications. She also said that no apartments would be shown until the applications were approved by the main office, Potomac Properties, Inc.

At this point, I began to get pretty mad, but Ginny said, "C'mon Al, let's just do it, it'll be all right." So, we filled out the applications. They sure asked for a lot of information, most of which I didn't think was any of their business, like former marriages and alimony payments. So I didn't answer that part.

I can't believe that they've gone and dragged up all that stuff about my former wife and child, and Melinda, the woman I knew in Baltimore. Yes, it's true, I was married in Philadelphia, and I did leave Melinda in Baltimore, but it's not as bad as they say. My ex-wife has a good job, and she doesn't need my money even though she keeps crying to the judge about me. More important, that's got nothing to do with my wanting to rent an apartment here. All that information does is hurt me and Ginny and Dwayne very much.

Mrs. Reese asked Ginny a lot of questions about Dwayne, and took all kinds of notes. I told Mrs. Reese that we would prefer to have a first floor apartment. Mrs. Reese said that there was a set of six steps from the entrance of each building to the first floor apartments, and she didn't see how that would work out with Dwayne's wheelchair. I told her they'd simply have to install a ramp. She said, "I can't believe you'd expect us to do that, or expect the other residents to put up with that kind of inconvenience."

By the time we left, I was steaming mad, and I told Mrs. Reese that she'd hear from my lawyer if our applications were not accepted. She said we'd hear in a few days, but two weeks went by. I called her several times, and she just said it was out of her hands. Then, Mr. Baldwin of Potomac Properties finally called, and said that our applications were not accepted because we didn't meet their income guidelines. He refused to discuss it further. I said I'd see him in court.

_____

/s/ Albert Banks

Date: _____

Witness for the Plaintiff

VIRGINIA SMALLWOOD

My name is Virginia Smallwood. I am 32 years old. I live in my sister's house at 1779 Jackson Street, N.E. I am a physical therapy specialist with the D.C. People's Health clinic. My gross income is $325.00 per week including my salary and my foster child's support money from D.H.R.

I first met Albert Banks at a dinner party given by some of our mutual friends. He had recently come to D.C. from Baltimore. We soon became good friends, and he moved in with me. One of the things that attracted me to Al was that he was always particularly kind and considerate to my foster son, Dwayne. Dwayne is a physically handicapped youngster whom I found at Forest Haven when I worked. He is not retarded, but he was placed there as an infant. The Department of Human Resources let me take him into my care.

Albert and I soon decided to get a place of our own. On September 21, Al saw a nice place, called Waterfront Gardens, advertised in the Star. Albert called to make an appointment with the resident manager, Mrs. Reese. From what she told him over the phone, it sounded like there wouldn't be any problem, if we liked the place. We went to see it on Sunday, September 23.

As soon as we arrived at the rental office, I could just feel trouble coming. A woman, who I learned was Mrs. Reese, just stared at us when we walked in. I think the sight of Dwayne in his wheelchair startled her. She looked pretty upset, and was instantly hostile.

At first, this woman denied that we had an appointment. But I saw "Banks" written plain as day on her desk calendar, and I pointed this out to her. She said something nasty, and glared at me. Then, she gave Al a form and told him to fill it out for him and his wife. Well, we just laughed with that, and explained that we were just good friends. Mrs. Reese looked angry, and then gave me a form, too, explaining that company policy required separate applications for unmarried people. Al got really mad, but I calmed him down, and told him just to fill it out.

The applications asked for quite a lot of personal information. After I gave mine back to Mrs. Reese, she asked me a lot of questions about Dwayne: what was wrong with him; how long he'd been with me; where he'd been before; whether he needed special living arrangements. I told her that we'd prefer the first floor. Mrs. Reese said she didn't see how we'd be able to do it, even on the first floor, because there was a flight of steps into each building, and inside each

hallway leading to the first floor apartments. I told her they'd have to install ramps. She said no way, that we could just as well go find a place that could accommodate Dwayne. Then she had the nerve to ask me if Dwayne was "dangerous." I was very offended, and told her so. Obviously, she had a lot of prejudice against handicapped people. Never once did she speak to Dwayne directly the whole time we were there.

As we were leaving, I asked Mrs. Reese when we'd hear from her. She said in about two days. We waited a week, and then began to call each day. We never could get an answer. Mrs. Reese just kept saying that the matter was out of her hands. Finally, around October 9, Albert got the call from Mr. Baldwin, saying that our applications were rejected. I couldn't believe it. With my salary and D.H.R. support payments for Dwayne I make almost as much as their income quidelines require, and with Al's income, we certainly could have managed. Their attempts to make Albert look bad have just been sickening. I certainly hope those people won't be allowed to get away with what they've done to us.

_____

/s/ Virginia Smallwood

Date: _____

Witness for the Plaintiff

TERRY HOBSON

My name is Terry Hobson. I am 25 years old. I live at 1285 7th Street, N. E. I am a third year law student at Georgetown and I do volunteer for the Legal Aid Society there.

On October 16, 1979, I saw a notice on our bulletin board at the legal aid office asking for someone to volunteer a few hours to assist with the investigation of a housing discrimination case. I responded to the ad, and got in touch with the firm that's representing Mr. Banks and Ms. Smallwood.

I was assigned to go with a friend of the same sex to the Waterfront Gardens apartments, 425 N Street, S. W. We were to attempt to make an application to rent an apartment together there. We were given instructions about what to say, what to put on our applications, and what to do if any trouble arose. We were specifically told to speak to Mrs. Reese.

I and my friend, Bernie Smith, went to the apartments the next day. We did not have an appointment. We went to the office and asked to see the resident manager. The woman at the desk said she was the manager, and she introduced herself as Mrs. Reese.

Mrs. Reese couldn't have been nicer. We introduced ourselves, and explained that we were law students at Georgetown, and that we were working part-time for an attorney with offices in Waterside Mall, which is close to Waterfront Gardens. We explained that we were currently living on Capitol Hill, but that we wanted a place more convenient to work as well as school. Waterfront Gardens seemed perfect.

Mrs. Reese said that she didn't see any problem. Waterfront Gardens, she said, had a lot of young attorneys who worked in the various government agencies nearby, so we'd feel right at home. Mrs. Reese said that we could fill out an application, and she'd call in the credit check before we went to inspect the apartment. By the time we would get back to the office, we should have our approval from Potomac Properties.

I asked Mrs. Reese whether we'd have to fill out separate applications, but she said one joint application would be fine. Then I asked her what standard would be used to determine whether our income was sufficient. Mrs. Reese said that the combined income of joint applicants is considered. If my and Bernie's combined gross weekly income was equal to the $350.00, we'd be accepted.

Mrs. Reese never mentioned character references. After we filled out the application, she called the information into Potomac Properties. Then we went to look at an apartment.

When we returned to the office about fifteen minutes later, Mrs. Reese again called Potomac Properties, and received approval for my application. Of course, Bernie and I really didn't earn $350.00 a week, but that's what the lawyer who hired us told us to say. We listed that lawyer's name on our application and that's who Potomac Properties called.

Mrs. Reese said that Bernie and I could move in whenever we wanted. I told her I'd call within the week to confirm.

_____

/s/ Terry Hobson

Date: _____

Witness for the Defense

VICTORIA REESE

My name is Victoria Reese. I am 45 years old. I live at 426 N Street, S. W., Apartment #1. I am the resident manager of the Waterfront Gardens Apartments. I am employed by Potomac Properties, Inc.

On Friday, September 21, 1979, I received a call from a Mr. Albert Banks in response to an ad for apartments that Potomac Properties ran in the paper that day. Mr. Banks asked to make an appointment for the following Sunday to see an apartment. I told him that he could come at 2:00 p.m. on Sunday, September 23, to fill out an application.

Mr. Banks did not mention anything about sharing his apartment with co-tenants, so I was suprised when he showed up Sunday with a woman and a severely handicapped teenager. Since I wasn't expecting this, I didn't realize at first that this was the man who had made the appointment. The woman rudely read my calendar and told me that they were the "Banks" appointment. I asked them to sit down, and in so doing, I made the mistake of referring to the woman as Mrs. Banks. Well! I know I should "get with it" but I'm still old-fashioned enough to think that when a man and a woman come in to discuss an apartment, they are probably married. I'm used to being polite, and I'm not used to being laughed at, the way those two laughed at me, as they told me they were not married. They were positively rude and pushy.

I gave them both separate applications, and explained to them that Potomac Properties requires separate applications from unrelated persons who want to be co-tenants. The man, Mr. Banks, began shouting at me, calling me "an old bat" and other names, and I was afraid he might strike me, but the woman pulled him back and told him to sit down and to fill out the application. When Mr. Banks returned the application to me, I saw that he had refused to fill out some parts of it. I also saw that, from the little he did fill out, he didn't earn enough to meet our income guidelines. I didn't say anything then, because he was saying something about "getting a lawyer" if the application was not accepted. I knew I'd have to get Mr. Baldwin in on this one.

When I read Ms. Smallwood's application, I realized for the first time that this teenager was her foster son, and that he would live with her. I asked some questions about special accommodations he might need, and Ms. Smallwood clearly said they'd need a first floor apartment.

I explained that a first floor apartment might not totally solve their problem with Dwayne, because there are short flights of steps into all of our buildings, and, once inside, up to the first floor. With that, Mr. Banks jumped in and said we'd simply have to install ramps. Next you know, they'd want an elevator. I couldn't believe they really expected us to do that! In addition to the expense for us, the other tenants would be terribly inconvenienced. I suggested that Mr. Banks and Ms. Smallwood might try to look at other places that were already equipped for handicapped people. Frankly, I didn't think it would be too safe to have that boy around, anyway, in his condition.

As they left, I told Mr. Banks and Ms. Smallwood that it would take several days or longer to approve their applications. Mr. Banks said they'd better be approved, or he'd sue me. They started hassling me with phone calls almost the next day. I couldn't say anything until Mr. Baldwin gave the final word, but they wouldn't listen. Finally, Mr. Baldwin called them to tell them that their applications were rejected. I knew there'd be trouble after that.

I was immediately suspicious when two nice young people from Georgetown Law Center showed up on October 22, wanting to rent. I know all about these people who are hired by lawyers to check out application policies at apartments. I suspected these two, Terry Hobson and Bernie Smith, were up to such a scheme, because they started asking me a lot of questions about our application policies for unmarried people, and whether we allowed unmarried couples to "live together" here.

I was just as nice as I could be. I even ignored our usual process of requiring separate applications from unrelated people. I thought that, by being really nice, they'd give us a good report. Well, later Mr. Baldwin told me that I made a big mistake in treating Hobson and Smith differently. In fact, he almost fired me for not following our usual policy. I realize now that it was a dumb thing to do.

_____

/s/ VICTORIA REESE

Date: _____

Witness for the Defense

THOMAS R. BALDWIN

My name is Thomas R. Baldwin. I am 46 years old. I live at 1399 Central Avenue, S.E. I am President of Potomac Properties, Inc. The Main Office of Potomac Properties is at 1424 Martin Luther King Avenue, S.E. Potomac Properties owns and manages the Waterfront Gardens Apartment Complex in Southwest, and the Stanton Hall Apartments at 526 Pearson Place, S.E.

On the afternoon of Sunday, September 23, I received a call from Mrs. Victoria Reese, our resident manager at the Waterfront Gardens complex. She told me that a man and woman with a handicapped teenager had just been in to see her about renting an apartment. She further explained that the man and woman were not married and that, in line with our policy, she asked them to submit separate applications.

Mrs. Reese told me that the interview had been particularly difficult, because the man and woman seemed very persistent, and seemed to resent any and all questions. She also told me that they did not meet our income guidelines for unrelated tenants. Mrs. Reese also mentioned that they demanded all kinds of modifications be made to our buildings, because the teenager was in a wheelchair. I told Mrs. Reese that, if their applications were otherwise acceptable, we might be able to make some modifications although I certainly am not about to sink a lot of money into it. I was more concerned about their financial circumstances.

Mrs. Reese expressed concern, because the man had muttered something about "getting a lawyer" if their applications were not accepted. I told Mrs. Reese not to worry, that this man could get a lawyer if he wanted, and I'd get one, too. Business people also have rights.

I'm fully aware of what the law says, and Potomac Properties has never discriminated against anyone. In fact, we do have unrelated co-tenants of the same and opposite sexes living together. However, I can hardly be required to conduct my business in a way that's going to put me out of business. Potomac Properties requires all unrelated persons who want to be co-tenants to meet our income, credit and character reference requirements individually. Each individual must have good references, a good credit rating, and have a weekly income equal to one month's rent. To find out this information, we must ask for separate applications.

Our policy is a matter of necessity, to keep our business afloat. Also, it protects the individuals involved. We have a number of unrelated couples living together at Waterfront Gardens. The law doesn't require unrelated couples to pay each other's bills, like it does with married people. If one person gets tired of the relationship and moves out, the other person has to be able to pay the whole rent, or be evicted. These people who live together are a real business risk for us. Because married people are more stable, and have a legal obligation to support each other, we allow them to fill out one application, showing their combined income.

Our policy applies to male-female relationships, as well as unrelated people of the same sex. Mrs. Reese made a big mistake in giving Terry Hobson the impression that we had a different policy for unrelated people of the same sex. I almost fired her over that incident.

I'd hate to have to evict someone for not paying rent shortly after a friend or lover walks out. That's exactly what Mr. Bobby Taylor, the resident manager of Mr. Banks' former apartment in Baltimore, had to do when Banks walked out on his girlfriend there. Taylor also told us that Banks walked out on his wife and child in Philadelphia, and has been ducking his alimony and child support payments.

We rejected Banks' and Smallwood's applications primarily because of their failure to meet our income requirements. Banks' bad credit and character references also weighed very much in my decision in his case. In Smallwood's case, her gross income is only $325.00 each week. Also, both of them were obnoxious and abusive with Mrs. Reese both at the time of their application, and later on, with repeated, harrassing phone calls.

I don't know where they got the idea that we were discriminating against Dwayne because of his handicap. As I said before, I told Mrs. Reese I thought we might be able to work out some of the difficulties with building access, but the bigger problem was their income. I don't see what was so wrong with Mrs. Reese asking questions about the condition and background of a prospective tenant who's severely handicapped. To my knowledge, we never had a handicapped person with such a severe disability apply before, and so, of course, we're not immediately equipped to deal with it. Banks and Smallwood were the ones making a big deal out of it. I do think that, rather than honestly trying to find a place to accommodate them and their son adequately, they were trying to make a lot of trouble for us.

/s/ Thomas Baldwin

Date: _____

Witness for the Defense

BOBBY TAYLOR

My name is Bobby Taylor. I am 36 years old. I live at High Tower Apartments, 26 West Baltimore Street, Baltimore, Md. I am the resident manager of that building.

Mr. Albert Banks is a former resident of High Tower. On October 1, 1979, I received a call from Mr. Thomas Baldwin of Potomac Properties in D.C. He told me that Albert Banks had applied for residence in one of Potomac's apartment complexes, and that Banks had listed High Tower as his former residence.

I was shocked to hear Banks' name. I told Baldwin that I was glad he called. I hadn't heard from or seen Banks since he up and walked out on his girlfriend here last January. When she couldn't meet the February rent, I had to evict her.

I first met Albert Banks when he and his friend Melinda came to our rental office in late August of 1978. He was starting a graduate program in creative writing, I think, at University of Maryland - Baltimore. Neither of them earned enough to pay the rent alone, but our policy was to accept co-tenants if they could split the rent evenly. I accepted their application for a month-to-month lease, and they moved in on September first.

Banks's rent was usually late. Sometimes, I received complaints from other tenants about noise from his apartment, and unsanitary conditions there. You could hardly call Banks a model resident, or even a good one.

In early January, someone from the domestic relations court in Philadelphia came to my office and inquired into Albert Banks' whereabouts. The official had a summons for Banks to appear in court there, for something about child support and alimony. It was news to me that Banks had a wife and kid, but I wasn't surprised to learn that he was ducking his payments. Banks wasn't in his apartment when we went to it, but the summons was left on the door.

I didn't think any more about it. But in February, the rent was very late, and I finally had to post a warning note on the apartment. The next day, Melinda came to me in tears. Banks had disappeared in early January. She came home one night, and all his stuff was gone. She never heard from him again. She didn't know about the summons or the court action

in Philadelphia. I hated to tell her, but we put two-and-two together, and guessed that Banks came home, found the summons on his door, and split. The date of his disappearance was exact. Poor Melinda couldn't pay the rent herself after that, but it worked out o.k., because we became good friends, and she moved in with me.

I told all of this to Mr. Baldwin. I'm not sure what Banks' legal status in Philadelphia is right now, and it's not my business. I do know, however, that based on my experience as his resident manager, I would never recommend him to anyone. Personally, I think that what he did to Melinda, and his wife before that, is just awful. It's a pleasure to testify against him, and I would have come even if Mr. Baldwin wasn't paying me $100.00 for my per day expenses here.

/s/ Bobby Taylor

Date: _____

DOCUMENTS

SOUTHWEST

WATERFRONT GARDENS
425 N STREET, S.W.

554-9999

CONVENIENT TO EVERYTHING

SPACIOUS, LGE. 2 BR., LAUNDRY, KIT., SEP. DR., ALL UTILS., $350/MO., PKG., NO PETS

POTOMAC PROPERTIES, INC.

"WHERE GRACIOUS FAMILIES FIND SPACIOUS LIVING."

The Washington Star
Sept. 21 1979 C-7

DOCUMENTS/2

APPLICATION FOR RENTAL

Thomas R. Baldwin
President

POTOMAC PROPERTIES, INC.

"Where Gracious Families Find Spacious Living."

*Stanton Hall
*Waterfront Gardens

NAME Albert Baker

CURRENT ADDRESS 1779 Jackson St, NE, DC 20017

CURRENT PHONE 635-9797

HOW LONG AT THIS ADDRESS?

FORMER ADDRESS 212 W. Balto St. BALTO. MD.

OWNER OR MANAGING CO.

PHONE

CURRENT EMPLOYER

EMPLOYER'S ADDRESS & AM A FREE-LANCE WRITER

EMPLOYER'S PHONE

DO NOT WRITE IN THIS SPACE

Request for 2BR w/ V. Smallwood + kid in wheelchr.; no steady income — loud, aggressive; note blank spaces — better call Baldwin

VRee

SUPERVISOR YEARS THERE SALARY $ PER

INCOME OTHER THAN SALARY $ PER SOURCE ABOUT $8,000 PER YR. - ARTICLES, ETC. & HAVE ENOUGH TO CONTRIBUTE TO RENT EACH MONTH

DEBTS (please include charge accounts, installment contracts, etc.) Use back if necessary

Creditor	Account Number	Monthly Payment	Current Bal.

ARE YOU RESPONSIBLE TO PAY ALIMONY? AMOUNT $ PER

ARE YOU RESPONSIBLE TO PAY CHILD SUPPORT? AMOUNT $ PER

LIST YOUR DEPENDENTS:

WHICH OF THESE DEPENDENTS WILL LIVE WITH YOU?

9/23/79 I swear this information is correct: Albert Baker (sign)

APPLICATION FOR RENTAL

Thomas R. Baldwin
President

POTOMAC PROPERTIES, INC.

"Where Gracious Families Find Spacious Living."

*Stanton Hall
*Waterfront Gardens

NAME Virginia Smallwood

CURRENT ADDRESS 1779 Jackson St.
N.E. D.C. 20017

CURRENT PHONE 635-9797

HOW LONG AT THIS ADDRESS? 2½ YEARS

FORMER ADDRESS University Courts.
College Park, Md.

OWNER OR MANAGING CO. U. of Md.

PHONE 454-2700

CURRENT EMPLOYER D.C. Kennedy Health Center

EMPLOYER'S ADDRESS 1427 Fl. Street, NW.

EMPLOYER'S PHONE 529-1000

DO NOT WRITE IN THIS SPACE

Banks girlfriend — w/kid in wheelchair — Forest Haven ??!!

Very aggressive — ramps!

Income — not enough

VRse

SUPERVISOR Mrs. Adams YEARS THERE 1½ SALARY $275 PER WEEK

INCOME OTHER THAN SALARY $50.00 PER WEEK SOURCE D.H.R. SUPPORT CHECK FOR DUWAYNE

DEBTS (please include charge accounts, installment contracts, etc.) (use back if necessary)

Creditor	Account Number	Monthly Payment	Current Bal.
Sterling Loan Associates	T-219-38-2200	$ 40.00	$2,235
Sears	56-3079-24-1	$ 15.00	$300.00

ARE YOU RESPONSIBLE TO PAY ALIMONY? NO AMOUNT $ — PER —

ARE YOU RESPONSIBLE TO PAY CHILD SUPPORT? NO AMOUNT $ — PER —

LIST YOUR DEPENDENTS: Duwayne Jones, Jr. Justin Jones

WHICH OF THESE DEPENDENTS WILL LIVE WITH YOU? Both

9/25/79

I swear this information is correct: Virginia Smallwood (Sign)

APPLICATION FOR RENTAL

Thomas R. Baldwin
President

POTOMAC PROPERTIES, INC.

"Where Gracious Families Find Spacious Living."

*Stanton Hall
*Waterfront Gardens

NAME Terry Hobson & Bernie Smith

CURRENT ADDRESS 1255 7th St. N.E.

Washington, D.C. 20003

CURRENT PHONE 544-2785

HOW LONG AT THIS ADDRESS? One year

FORMER ADDRESS 2620 University Blvd.

Langley Park, Md.

OWNER OR MANAGING CO. University Prop, Inc

PHONE 864-2000

CURRENT EMPLOYER Hasnell and Burns

EMPLOYER'S ADDRESS 4th & I Sts, S.W.

Waterside Mall

EMPLOYER'S PHONE 354-2100

DO NOT WRITE IN THIS SPACE

Law students at Georgetown — want 2BR together

Lots of questions about same sex & opposite sex couples living together here — maybe testers ??

Better accept - no delay

Victoria Dean

SUPERVISOR Mr. Blackstone YEARS THERE One (TOTAL: BOTH OF US TOGETHER SALARY $370 PER week)

INCOME OTHER THAN SALARY $ N/A SOURCE (HOBSON: $200 PER WEEK; SMITH: $170 " ")

DEBTS (please include charge accounts, installment contracts, etc.) (use back if necessary)

Creditor	Account Number	Monthly Payment	Current Bal.
(Hobson) National Bank of Wash.	6-170-55-1	$98.00 (car loan	$365.00
(Hobson) Master Charge	37892-5518-9	About $20.00	$265.00
(Smith) Sallie Mae Student Loan	176-80-1979-C	$30.00 (quarterly interest	$2,500.00

ARE YOU RESPONSIBLE TO PAY ALIMONY? NO AMOUNT $ ____ PER ____ (NOT PAID THRU OUT OF SCH.)

ARE YOU RESPONSIBLE TO PAY CHILD SUPPORT? NO AMOUNT $ ____ PER ____

LIST YOUR DEPENDENTS: NONE

WHICH OF THESE DEPENDENTS WILL LIVE WITH YOU? NONE

October 22, 1979 I swear this information is correct: Bernie Smith 10/22/79 Terry Hobson (sig.)

APPENDICES

A. DEFINITIONS

B. MOCK TRIAL RULES OF EVIDENCE

C. MOCK TRIAL RULES OF COMPETITION

APPENDIX A

DEFINITIONS

The D.C. Human Rights Act, in D.C. Code §6-2202, defines the categories of discrimination at issue in this case as follows:

"Family Responsibilities" means the state of being, or the potential to become, a contributor to the support of a person or persons in a dependent relationship, irrespective of their number.

"Marital Status" means the state of being married, single, divorced, separated, or widowed and the usual conditions associated therewith, including pregnancy or parenthood.

"Physical Handicap" means a bodily or mental disablement which may be the result of injury, illness or congenital condition for which reasonable accommodation can be made.

1980 MOCK TRIAL COMPETITION

SIMPLIFIED RULES OF EVIDENCE AND PROCEDURE

In American trials, elaborate rules are used to regulate the admission of proof (i.e., oral or physical evidence). These rules are designed to ensure that both parties receive a fair hearing and to exclude any evidence deemed irrelevant, incompetent, untrustworthy, or unduly prejudicial. If it appears that a rule of evidence is being violated, an attorney may raise an objection to the judge. The judge then decides whether the rule has been violated and whether the evidence must be excluded from the record of the trial.

Formal rules of evidence are quite complicated and differ depending on the court where the trial occurs. For purposes of this mock trial competition, the rules of evidence have been modified and simplified below.

A. Witness Examination

1. Direct examination (attorneys call and question Witnesses)

a. Form of questions: Witnesses may not be asked leading questions by the attorney who calls them. A leading question is one that suggests to the witness the answer desired by the examiner, and often suggests a "yes" or "no" answer. Direct questions generally are phrased to evoke a set of facts from the witness.

Example of a direct question: "Mr. Banks, when did you first meet Virginia Smallwood?

Example of a leading question: "Mr. Banks, you don't have a steady income, do you?

b. Narration: While the purpose of direct examination is to get the witness to tell a story, the questions must ask for specific

information. The questions must not be so broad that the witness is allowed to wander or "narrate" a whole story. Narrative questions are objectionable.

Example of a narrative question: "Mr. Banks, what happened when you went to Waterfront Gardens?"

Narrative answers: At times, a direct question may be appropriate, but the witness' answer may go beyond the facts for which the question asked. Such answers are subject to objection on the grounds of narration.

c. Scope of witness examination: Direct examination may cover all facts relevant to the case of which the witness has first-hand knowledge. Any factual areas examined on direct examination may be subject to cross-examination.

d. Character: For mock trial purposes, evidence about the character of a party may not be introduced unless the person's character is an issue in the case. For example, whether one spouse has been unfaithful to another is a relevant issue in a civil trial for divorce, but is not an issue in a criminal trial for larceny. Similarly, a person's violent temper may be relevant in a criminal trial for assault, but is not an issue in a civil trial for breach of contract.

e. Refreshing Recollection: If a witness is unable to recall a statement made in the affidavit, or if the witness contradicts the affidavit, the attorney on direct may seek to introduce into evidence that portion of the affidavit that will help the witness to remember. (See Part B.5 on introduction of evidence).

2. Cross-examination (questioning of the other side's witnesses)

a. Form of questions: An attorney may ask leading questions when cross-examining the opponent's witnesses. Questions tending to evoke a narrative answer should be avoided. (these usually begin with "how", "why" or "explain").

Example of a leading question: "Mrs. Reese, didn't you change your policy for Terry Hobson?

b. Scope of witness examination: Attorneys may only ask questions that relate to matters brought out by the other side on direct examination, or to matters relating to the credibility of the witness. This includes facts and statements made by the witness for the opposing party. Note that many judges allow a broad interpretation of this rule.

Example: If the plaintiff in a car accident case never mentions damages to the car, then the defense cannot ask questions on cross-examination about the repair costs.

c. Impeachment: - On cross-examination, the attorney may want to show the court that the witness should not be believed. This is called impeaching the witness. It may be done by asking questions about prior conduct that makes the witness' credibility (truth-telling ability) doubtful. Other times, it may be done by asking about evidence of certain types of criminal convictions. Impeachment may also be done by introducing the witness' affidavit, and asking the witness whether he or she has contradicted something which was stated in the affidavit.

Example (Prior Conduct): "Is it true that you abandoned your girlfriend in Baltimore?

Example (Past Convicted): "Is it true that you were convicted of armed robbery?"

(NOTE: These types of questions may only be asked when the questioning attorney has information that indicates that the conduct actually happened.)

3. Re-direct examination

If the credibility or reputation for truthfulness of the witness has been attacked on cross examination, the attorney whose witness has been damaged may wish to ask several more questions. These questions should be limited to the damage the attorney thinks has been done and should be phrased so as to try to "save" the witness' truth-telling image in the eyes of the court. Re-direct examination is limited to issues raised by the attorney on cross-examination.

B. Additional Rules of Evidence

1. Hearsay

Any evidence of a statement made by someone who is not present in the court which is offered to prove the truth of a fact, a piece of evidence or any witness' testimony is hearsay and not permitted.

Example: Virginia Smallwood says, "Some tenants told me that Mrs. Reese doesn't like handicapped people."

Though hearsay is not usually allowed at a trial, a judge may sometimes allow it if:

a. it was said by a party in the case and contains evidence which goes against their side (e.g., in a murder case, the defendant told someone he committed the murder). This is sometimes called the "Admission against Interest" Exception; or

b. a person's state of mind is an important part of the case and the hearsay consists of evidence of

what someone said which described that person's state of mind (sometimes called "State of Mind" Exception).

2. Witness Opinions

As a general rule, witnesses may not give opinions. Certain witnesses who have special knowledge or qualifications may be qualified as "experts." An expert must be qualified by the attorney for the party for which the expert is testifying; this means that before an expert can be asked an expert opinion, the questioning attorney must bring out the expert's qualifications and experience.

All witnesses may offer opinions based on the common experience of laypersons in the community and of which the witnesses have first-hand knowledge. (Example: Virginia Smallwood says, "Mrs. Reese was acting in a hostile manner.")

No witness may give an opinion about how the case should be decided. (Example: "Mr. Hobson, does Potomac Properties discriminate against unmarried couples?") This is called the "ultimate issue" question.

3. Lack of Personal Knowledge: A witness may not testify to any matter of which the witness has no personal knowledge.

Example: If Bobby Taylor has never done business with Virginia Smallwood, he could not say, "Virginia Smallwood is not a good tenant."

4. Relevance of Evidence

Generally, only relevant testimony and evidence may be presented. This means that the only physical evidence and testimony allowed is that which tends to make a fact which is important to the case more or less probable than the fact would be without the evidence. However, if the relevant evidence is unfairly prejudicial, may confuse the issues, or is

a waste of time, it may be excluded by the court. This may include testimony, pieces of evidence and demonstrations that have no direct bearing on the issues of the case, or have nothing to do with making the issues clearer.

Example: The defense asks Albert Banks on cross-examination, "How old are you?" (This question is permitted only if her age is relevant to the case.)

5. Introduction of physical evidence

There is a special procedure for introducing physical evidence during a trial. The physical evidence must be relevant to the case and the attorney must be prepared to defend its use on that basis. Below are the basic steps to use when introducing a physical object or document for identification and/or use as evidence.

a. "Your honor, I ask that this letter be marked for identification as Petitioner's Exhibit A." (Show letter and hand to bailiff for marking.)

b. (Show letter to opposing counsel, who may make an objection to the offering at this time.)

c. (Show letter to witness.) "Mr. King, do you recognize this document which is marked Petitioner's Exhibit A for identification?" (The witness should say yes and identify the document.

At this point, the attorney may proceed to ask the witness a series of questions about Exhibit A.

d. If the attorney wishes to place the document into evidence, say, "Your honor, I offer this letter for admission into evidence as Petitioner's Exhibit A, and ask the court to so admit it."

e. Get ruling from court on admission and hand the document to the judge.

C. Objections

An attorney can object any time the opposing attorneys have violated the rules of evidence. The attorney wishing to object should stand up and do so at the time of the violation. When an objection is made, the judge will ask the reason for it. Then the judge will turn to the attorney who asked the question, and that attorney usually will have a chance to explain why the objection should not be accepted ("sustained") by the judge. The judge will then decide whether a question or answer must be discarded, because it has violated a rule of evidence ("objection sustained"), or whether to allow the question or answer to remain on the trial record ("objection overruled").

Following are standard objections:

1. Irrelevant evidence: "I object, your honor. This testimony is irrelevant to the facts of this case."

2. Leading questions: "Objection. Counsel is leading the witness." (Remember, this is only objectionable when done on direct examination.)

3. Improper character testimony:

   a. "Objection. The witness' character or reputation has not been put in issue."

b. "Objection. Only the witness' reputation/character for truthfulness is at issue here."

4. Beyond the scope of direct examination: "Objection. Counsel is asking the witness about matters that did not come up in direct examination."

5. Hearsay: "Objection. Counsel's question/the witness' answer is based on hearsay." (If the witness makes a hearsay statement, the attorney should also say, "and I ask that the statement be stricken from the record.")

6. Opinion: "Objection. Counsel is asking the witness to give an opinion."

7. Lack of personal knowledge: "Objection. The witness has no personal knowledge that would enable him to answer this question."

D. Miscellaneous rules of procedure

1. Re-direct and re cross examination are permissible; re-direct is limited to the scope of cross; re-cross is limited to the scope of the re-direct.

2. For mock trial purposes, motions for dismissal at the end of the plaintiffs case are not to be used.

3. Order of closing arguments: first - plaintiffs; second - defense; rebuttal by plaintiffs is permitted.

1980 MOCK TRIAL COMPETITION

RULES OF COMPETITION

INTRODUCTION

The Annual Mock Trial Competition is governed by the rules set forth below. These rules are designed to ensure excellence in presentation and fairness in judging all competition trials.

The 1980 Mock Trial Competition will be conducted in a different fashion than previous year's competitions.

The competition trials will take place at the end of March. In each trial the presiding trial judge will make two decisions. The first decision will be on the merits of the case, i.e., how the judge would decide if this were a real case. The second decision will be on the best team presentation.

RULES OF THE COMPETITION

I. TEAM PRESENTATIONS

1. The Statement of Facts and any additional stipulations may not be disputed at trial.

2. Each witness is bound by the given witness statement. All participants agree that the witness statements are signed and sworn affidavits.

   a. If a witness testifies in contradiction of a fact in the witness statement, the opposition must show this on cross-examination by using the witness statement to impeach the witness

   b. If a witness invents an answer which is likely to affect the outcome of the trial, the opposition may object and ask for a bench conference; the judge, with the assistance of the Street Law staff member in attendance, will decide whether to allow the testimony. The judge may also consider such action in making the decision concerning the best team presentation.

WITNESSES

FOR THE PLAINTIFFS

Albert Banks, Plaintiff
Virginia Smallwood, Plaintiff
Terry Hobson, "tester"

FOR THE DEFENSE

Thomas R. Baldwin, President, Potomac Properties; defendant
Victoria Reese, resident manager, Waterfront Gardens; defendant
Bobby Taylor, resident manager, High Tower, Baltimore, Maryland

EVIDENCE

Application of Albert Banks
Application of Virginia Smallwood
Application of Terry Hobson
September 21 advertisement for the Star

Signed and sworn affidavits for each witness

3. Students may read other cases and materials in preparation for the mock trial. However, they may only cite the materials given, and they may only introduce as evidence those documents that are given.

4. The trial proceedings are governed by the Mock Trial Simplified Rules of Evidence. Other more complex rules should not be raised in the trial.

5. Usual rules of courtroom decorum apply to all participants.

6. During the actual trial, law student instructors and all other observers may not talk to, signal, or otherwise communicate with or in any way coach their teams.

7. All teams should consist of from two to five attorneys and three witnesses, with alternates for each position.

II. JUDGING

1. The presiding trial judge will render two decisions at the end of the trial. One will be on the merits of the case, i.e., whether the adoption should be granted. The second decision will be on the best team presentation. The decisions may have different winners. The judges will consider the performance of all witnesses and attorneys in making their decision as to which team gave the best performance.

2. The decisions of the judges are final.